

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System Operator, Docket No. ER04-1252-000
Inc. and Ameren Services Company

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 24, 2005)

1. On May 6, 2005, Ameren Services Company, filed a Settlement Agreement among the Midwest Independent Transmission System Operator, Inc., Ameren Services Company, for and on behalf of itself and its electric utility affiliates Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS (collectively, Ameren), and the Missouri Joint Municipal Electric Utility Commission (MJMEUC) (collectively, Settling Parties) in the captioned docket. Initial comments in support of the Settlement Agreement were filed by the Commission Trial Staff on May 26, 2005. No reply comments were filed. The Presiding Administrative Law Judge certified the Settlement Agreement, as uncontested, to the Commission on June 7, 2005.
2. The Settlement resolves all issues set for hearing in the above-captioned docket.¹ The Settlement provides that refunds will be calculated with interest pursuant to Commission's regulations and states that the standard of review for any modifications not agreed to by all Parties, as well as any modifications by the Commission acting *sua sponte* shall be the "public interest" standard under the Mobile-Sierra doctrine.²
3. The Settlement Agreement is in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. Further the rate schedules submitted

¹ *Midwest Independent Transmission System Operator, Inc. and Ameren Services Company*, 109 FERC ¶ 61,167 (2004).

² *United Gas Pipe Line Co., v. Mobile Gas Service Corp.*, 359 U.S. 332 (1956) and *Federal Power Commission v. Sierra Power Co.*, 350 U.S. 348 (1956).

as part of the settlement are not in compliance with *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). Accordingly the Commission directs Ameren Services Company to file revised tariff sheets in accordance with its rules.

4. This order terminates Docket No. ER04-1252-000. The Commission will establish a new subdocket upon receipt of the properly formed and paginated tariff sheets.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it approves a settlement that provides the standard of review for any modifications to this Settlement Agreement that are not agreed to by all the Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the “public interest” standard under the *Mobile-Sierra* Doctrine.

Suedeem G. Kelly